

IV. Claims 26 and 27 drawn to a method of treating a disease, classified in class 514, subclass 75+.

In addition, the Examiner has restricted the claims into species as follows:

Species 1: an antiviral agent, protease inhibitor, reverse transcriptase inhibitor, nucleoside analogue, AZT.

Species 2: an anticancer agent, a polymerase inhibitor, gemcitabine, ara-C, 5-azacytidine, cladribine, fluciarabine, cluorodeoxyruridine, cytosine, arabinoside and 6-mercaptopurine.

The Examiner considers that Groups II-IV are drawn to methods of treating various disease states wherein the nature of the diseases claimed form a divergent search for each of the three methods. The Examiner also considers that the compositions of Group 1 comprise structurally different compounds than those of Group III and the compounds of Groups II and IV are so diverse in classification that the primary molecule may become a mere substituent of a larger therapeutic agent and require a search distinct from that of Group III. Further, the Examiner considers that two species are disclosed with no generic claim.

Applicants respectfully traverse the restriction requirement. MPEP §803 states that the two criteria for a proper requirement for restriction between patentably distinct inventions are that (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner is restriction is not required. As evidenced by the Examiner's restriction requirement, compounds and compositions of Group I are all in the same class and claims 1 and 28 are drawn to the generic Formula III. The remaining claims in Group I are drawn to species of generic claims 1 and 28.

As provided under MPEP §806.04(a) and 37 C.F.R. §1.141, a reasonable number of species of an invention may be specifically claimed in one application provided that the application also includes an allowable claim generic to the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all the limitations of the generic claim (claim 1). Dependent claims 2-13 and 29-40 include all of the limitations of generic claim 1. Therefore, Applicants respectfully submit that the compounds of claims 2-13 and 29-40 are species of the compound of generic claim 1 and the restriction requirement as to the species should be withdrawn.

Applicants also respectfully submit that the Examiner has not shown that there would be a serious burden on the Examiner if a restriction was not required. As such, the restriction requirement as to the groups should be withdrawn.

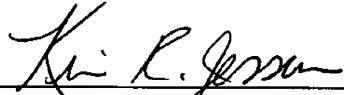
For the above reasons, Applicants request reconsideration of the restriction requirement and that the restriction be withdrawn. In addition, Applicants respectfully request timely allowance of all pending claims.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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